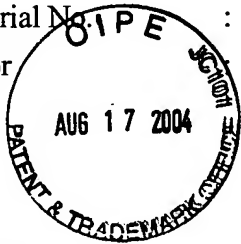


**TERMINAL DISCLAIMER TO OBVIATE A PROVISIONAL  
DOUBLE PATENTING REJECTION OVER A PENDING SECOND APPLICATION**

In re application of : Ralph H. Johnson  
Assignee : Finisar Corporation  
Serial No. : 10/026,019  
For : Vertical Cavity Surface Emitting  
Laser Including Indium Antimony  
And Nitrogen in the Active  
Region  
Filed : December 20, 2001  
Examiner : Than M. Nguyen  
Group Art Unit : 2828



**COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, VA 22313-1450**

Dear Sir:

Assignee, through its attorney of record, represents that it is the owner of the entire interest in the above-identified instant patent application. Assignee is the owner of this instant application because the inventor assigned all of his rights in this application to the Assignee, and this assignment is recorded in the United States Patent and Trademark Office at Reel 014484, Frame 0171.

Assignee, hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the above-identified instant application that would extend beyond the expiration date of the full statutory term as shortened by any terminal disclaimer filed prior to the grant of any patent granted on second pending Application Number 10/026,044, filed on December 27, 2001. Assignee agrees that any patent so granted on the instant application shall be enforceable only for and during such period that the legal title to it and the second pending patent application are commonly owned. This agreement is to run with any patent granted on the above-identified instant application and is to be binding upon the grantor, its successors or assigns.

Assignee, however, does not disclaim any terminal part of any patent granted on the above-identified instant application prior to the expiration date of the full statutory term of the second pending patent application in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR § 1.321(a), has all claims canceled by a reexamination certificate, is reissued or is otherwise terminated prior to expiration of its statutory term as presently shortened by any terminal disclaimer, except for the separation of legal title stated above.

Assignee hereby declares that all statements made herein of its own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated this 17 day of August, 2004.

Respectfully submitted,

WORKMAN NYDEGGER

By: 

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